

**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE AT NASHVILLE**

TENNESSEE SECURITIES DIVISION,

Petitioner,

vs.

IMTEK FUNDING CORPORATION,

IMTEK OFFICE SOLUTIONS, INC.,

BENEFICIAL ASSISTANCE,

MIDDLE TENNESSEE TRUST,

WALTER E. PHILLIPS, and

DAVID WOMACK,

Respondents.

No.: 00-007

ORDER TO CEASE AND DESIST

This Order issues as a result of a Petition and its exhibits attached hereto filed by the Tennessee Securities Division of the Department of Commerce and Insurance and is predicated upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

IMTEK Funding Corporation (hereinafter referred to as "IMTEK") is a Maryland corporation, with its principal place of business being 8003 Corporate Drive, Suite C, Baltimore, Maryland 21236. IMTEK has never registered a securities offering with the Division. IMTEK represents itself to be in the business of selling interests in viatical settlements.

2. IMTEK Office Solutions, Inc. (hereinafter referred to as "IMTEK Office"), is a Maryland Corporation, with its principal place of business being 21 Van Deman Street, Suite 100, Baltimore, Maryland 21224. IMTEK Office has never registered a securities offering with the Division. IMTEK Office represents itself to be in the business of selling interests in viatical

settlements.

3. Beneficial Assistance (hereinafter referred to as "Beneficial") is a wholly owned subsidiary of IMTEK Office, with its principal place of business being 8003 Corporate Drive, Suite C, Baltimore, Maryland 21236. Beneficial has never registered a securities offering with the Division. Beneficial represents itself to be in the business of selling interests in viatical settlements.

4. Middle Tennessee Trust is reportedly a Tennessee company with its place of business being 1535 West Northfield, Murfreesboro, Tennessee 37219. Middle Tennessee Trust has never registered with the Division as a broker-dealer.

5. Walter E. Phillips (hereinafter referred to as "Phillips") is a citizen and resident of the State of Tennessee, with his residence being 2326 Crown Hill Drive, Murfreesboro, Tennessee 37129. Phillips has never registered with the Division as a broker-dealer, or as an agent of a broker-dealer.

6. David Womack (hereinafter referred to as "Womack") is a citizen and resident of the State of Tennessee, with his mailing address being P. O. Box 1564, Murfreesboro, Tennessee 37133-1564. Womack has never registered with the Division as a broker-dealer, or as an agent of a broker-dealer.

7. The Respondents are presently and will continue to be engaged in the offer and/or sale of securities to Tennessee residents, which are not registered with the Securities Division, and do not qualify for any of the exemptions provided in the Tennessee Securities Act of 1980, as amended. Tenn. Code Ann. §§ 48-2-101, *et seq.* As a result of this activity, the public will suffer immediate and irreparable injury, loss or damage:

8. The Respondents, Middle Tennessee Trust, Phillips, and Womack, are presently and will continue to act as a broker-dealer and agents in the State of Tennessee without proper

registration, and will continue to solicit Tennessee resident customers. As a result of this activity, the public will suffer immediate and irreparable injury, loss or damage;

9. The Respondent, Middle Tennessee Trust, is presently and will continue to employ persons to act as agents of the Respondents without the proper registration, and will continue to solicit Tennessee resident customers. As a result of this activity the public will suffer immediate and irreparable injury, loss or damage;

10. The Respondents, in connection with the offer, sale and purchase of a security in this state, are engaged in an act, practice or course of business which operates as a fraud or deceit upon citizens of this state;

1 This Order is in the public interest and necessary for the protection of investors, and is consistent with the purposes fairly intended by the Act;

CONCLUSIONS OF LAW

Tennessee Code Annotated § 48-2-104 provides that it is unlawful for any person to sell any security in this state unless it is registered under this part, the security transaction is exempted under § 48-2-103, or the security is a covered security.

2. Tennessee Code Annotated § 48-2-102 provides that a security includes investment contracts. In *State v. Brewer*, 932 S.W.2d 1, 1 (Tenn.Crim.App. 1996), the court held that an instrument or agreement would be considered an investment contract when (1) an offeree furnishes initial value to an offeror, (2) a portion of this initial value is subjected to the risks of the enterprise, (3) the furnishing of the initial value is induced by the offeror's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind, over and above the initial value, will accrue to the offeree as a result of the operation of the enterprise, and (4) the

offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

3. Tennessee Code Annotated § 48-2-102(3) defines a “broker-dealer” as any person engaged in the business of effecting transactions in securities for the account of others, or any person engaged in the business of buying or selling securities issued by one (1) or more other persons for such person’s own account and as part of a regular business rather than in connection with such person’s investment activities;

4. Tennessee Code Annotated § 48-2-102(2) defines an “agent” as any individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities from, in or into this state;

5. Tennessee Code Annotated § 48-2-109(a) provides that it is unlawful for any person to transact business from or in this state as a broker-dealer or agent unless such person is registered as a broker-dealer or agent under this part;

6. Tennessee Code Annotated § 48-2-109(b) provides that it is unlawful for any broker-dealer to employ an agent to transact business as an agent unless the agent is registered under this part;

7. Based upon the Findings of Fact, the Respondents have violated and are violating Tennessee Code Annotated § 48-2-104(a) by engaging in the offer and/or sale of an unregistered security;

8. Based upon the Findings of Fact, the Respondent, Middle Tennessee Trust, has violated and is violating Tennessee Code Annotated § 48-2-109(a) and (b) by acting as unregistered broker-dealer and employing unregistered agents.

9. Based upon the Findings of Fact, the Respondents, Phillips, and Womack, have violated and are violating Tennessee Code Annotated § 48-2-109(a) by acting as unregistered agents;

10. Tennessee Code Annotated § 48-2-116 provides that the Commissioner may make, promulgate, amend, and rescind such Orders as are necessary to carry out the provisions of the Tennessee Securities Act of 1980, as amended, and that such Order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act;

11. Tennessee Code Annotated § 48-2-116(e)(2) provides that no Order may be entered without prior notice to affected parties (unless the Commissioner determines that prior notice would not be in the public interest and would be detrimental to the protection of investors), an opportunity for a hearing before the Commissioner, and written Findings of Fact and Conclusions of Law;

12. Based upon the Findings of Fact, it would not be in the public interest and it would be detrimental to the protection of investors if prior notice of this Order were given to affected parties;

NOW, THEREFORE, in consideration of the foregoing, it is **ORDERED** that:

The Respondents shall comply with the provisions of the Tennessee Securities Act of 1980, as amended.

2. The Respondents shall cease and desist in the future conduct of offering and/or selling any unregistered security from, in, or into the State of Tennessee until such time as all securities offered and/or sold are effectively registered with the Division.

3. The Respondents shall cease and desist in the further conduct as a broker-dealer or agent of a broker-dealer from, in, or into the State of Tennessee until such time as they are effectively registered with the Division to engage in such activity.

4. The Respondents shall cease and desist in the future conduct of employing persons whom are not registered with the Division as agents from offering and/or selling securities on behalf of the Respondent.

5. All persons in any way assisting, aiding, or helping any of the aforementioned Respondents in any of the aforementioned violations of the Tennessee Securities Act of 1980, as amended. Tennessee Code Annotated §§ 48-2-101, *et seq.*, shall cease and desist from all such activities in violation of the Tennessee Securities Act of 1980, as amended.

This Order is not intended to prohibit any lawful conduct in which the Respondents might be engaged.

Entry of this Order shall not in any way restrict the Tennessee Securities Division or the Commissioner of Commerce and Insurance from taking further action with respect to these or other possible violations by the Respondents of the Act or any of the Rules promulgated thereunder.

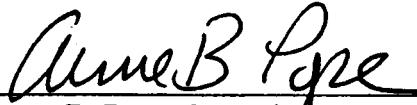
This Order shall become a Final Order thirty (30) days from the date of its entry, unless written notification requesting a hearing is made within that thirty (30) day period.

You are advised that you have the right to a hearing as to all matters raised in this Order. If you wish to exercise your right to a hearing, please notify:

**DAPHNE D. SMITH
ASSISTANT COMMISSIONER FOR SECURITIES
STATE OF TENNESSEE, DEPARTMENT OF COMMERCE AND INSURANCE
DAVY CROCKETT TOWER, SUITE 680
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243**

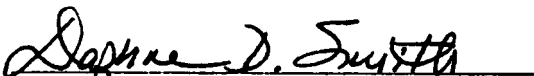
Such request must be received within thirty (30) days of the date of entry of this Order.

ENTERED this the 4th day of May, 2000.



Anne B. Pope, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



Daphne D. Smith
Assistant Commissioner for Securities
Department of Commerce and Insurance



Maliaka Bass EssameiDin (BPR# 015362)
Staff Attorney
Department of Commerce and Insurance
312 Eighth Avenue, North
Snodgrass Building, Twenty-Fifth Floor
Nashville, Tennessee 37243-0569
615 741 2199



John F. Morris (BPR# 019144)
Staff Attorney
Department of Commerce and Insurance
312 Eighth Avenue, North
Snodgrass Building, Twenty-Fifth Floor
Nashville, Tennessee 37243-0569
615 741 2199

